

Serial No. 09/875,198
Amend. Dated Sept. 26, 2003
Reply to Office Action of Mar. 26, 2003

REMARKS

Reconsideration and allowance of the above-captioned application is respectfully requested. Claims 13, 23, 27, 28 and 29 have been amended and claims 31 to 34 have been added to more clearly claim the invention. Thus claims 13 and 17-34 are pending in the present application. Reconsideration and allowance is respectfully requested.

The Examiner has rejected claims 13 and 17-29 under 35 U.S.C. § 112, first paragraph, asserting that the specification does not reasonably provide enablement for prevention of pseudofolliculitis barbae because it does not provide evidence of 100% efficacy in preventing the occurrence of lesions. The claims have been amended to clarify that the invention aids in the prevention of pseudofolliculitis. Support for this amendment is found *inter alia* in original claim 23. As the Examiner acknowledged, the example in the specification showed that the claimed composition resulted in the reduction of lesions by 75 to 80% *while continuing to shave*. This shows that Applicant's method and composition not only treated existing lesions, but necessarily prevented formation of new ones, and thus aids in the prevention of pseudofolliculitis barbae. Applicant therefore respectfully submits that the examiner's rejection is overcome and claims 13 and 17-29 should therefore be allowed.

The Examiner rejected claim 30 under 35 U.S.C. § 112, first paragraph, asserting that there does not appear to be support in the specification for "a method of hindering the appearance of pseudofolliculitis barbae." Applicant respectfully disagrees. The present invention describes a method for the treatment or, as discussed above, aiding in the prevention of pseudofolliculitis barbae. The term "prevention" means "hindrance." *See* The

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American Heritage Dictionary of the English Language, New College Edition, tab A hereto (“prevent” is defined as “(2) to keep (someone) from doing something; hinder; impede;” “prevention” is defined as “(1) the act of preventing; (2) a hindrance; obstacle; and “preventive” is defined as “(1) designed or used to prevent or hinder; acting as an obstacle; precautionary”). As discussed above, such a result has been shown by the examples. Accordingly, applicant respectfully submits that the Examiner’s rejection is overcome and claim 30 should be allowed.

Finally, the Examiner has rejected claim 23 under 35 U.S.C. §§ 102(b) and 103 as being anticipated and as obvious over WO 86/05389. Specifically, the Examiner asserts that example 4, page 10, lines 8-10 of WO 86/05389 shows a foam wherein the essential active ingredient is hydrocortisone acetate 3%. Applicants respectfully disagree. First claim 23 is directed to a shaving cream for aiding in preventing or treating pseudofolliculitis wherein the active ingredient “consisting essentially of” a therapeutic amount of glucocorticoid. According to the specification, this therapeutic amount is between 0.25 and 2.5%, preferably 1%. The composition of Example 4 is a *hot oil* anti-seborrheic emollient mousse foam containing 3% hydrocortisone to be used as a skin emollient, not a shaving cream. In fact, while the specification suggests that the composition can be used as a hair mousse foam, it says nothing about using it or any preparation described in WO 86/05389 patent as a shaving cream. Furthermore, while the Examiner states that “[i]t would have been reasonable for one of ordinary skill in the art to use the mousse foam of example 4 to shave which in the absence of any other shave preparation,” he does not explain why anyone would be motivated to use a hot oil product as a shaving cream. Applicant therefore respectfully maintains that WO

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86/05389 does not anticipate or render obvious the subject matter of claim 23 and that the Examiner's rejection should be withdrawn.

CONCLUSION

For the reasons stated above, Applicant believes that the subject application is now in condition for allowance and respectfully request such favorable action. The Examiner is invited to contact the undersigned at the telephone number below if he believes that a discussion would help advance the progress of this application.

The Commissioner is authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,



Maria Luisa Palmese
Reg. No. 34,402

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KENYON & KENYON
One Broadway
New York, NY 10004
(212) 425-7200